

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

ORDER

April 14, 2000

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Hampden Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-B

Docket No. 98-894

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Hartland & St. Albans
Telephone Company Pursuant to 35-A
M.R.S.A. § 7101-B

Docket No. 98-895

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Somerset Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-B

Docket No. 98-904

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Island Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-B

Docket No. 98-906

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Warren Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-B

Docket No. 98-911

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of West Penobscot Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-B

Docket No. 98-912

MAINE PUBLIC UTILITIES COMMISSION
Tariff Revision Regarding Addition of Bangor
Exchange to the Premium Calling Area of the
Exeter Exchange and Request for Waiver of Part
VII(B)(2)(a)(ii)(b) of Chapter 204

Docket No. 99-506

SOMERSET TELEPHONE COMPANY
Request for Accounting Order

Docket No. 99-880

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve a Stipulation which resolves all of the issues in the above-captioned matters. The Stipulation provides that neither the TDS companies (Hampden Telephone Company, Hartland & St. Albans Telephone Company, Island

Telephone Company, Somerset Telephone Company, Warren Telephone Company and West Penobscot Telephone Company) nor the Commission shall initiate a general rate proceeding until August 30, 2000, absent specific circumstances. It also resolves several accounting and depreciation issues as well as West Penobscot's addition of the Bangor exchange to the premium calling plan for the Exeter exchange pursuant to the Commission's Basic-Service Calling Area (BSCA) Rule.

II. BACKGROUND

A. Access Rates

On May 27, 1997, the Maine Legislature enacted 35-A M.R.S.A. § 7101-B, which required the Commission to establish intrastate access rates for local exchange carriers based on their interstate access rates as established by the Federal Communications Commission (FCC) by May 30, 1999, and every two years thereafter. On December 19, 1997, we adopted Section 8(J) of Chapter 280 of our Rules, which required the TDS companies (and all other independent telephone companies (ITCs)) to reduce their intrastate access rates by 40% of the difference between their existing rates and the level of the interstate access rates by May 30, 1998. On May 27, 1998, the Commission approved the TDS companies' initial reduction of access rates.

On November 24, 1998, we opened formal investigations into the rates of each ITC, including the TDS companies. The Office of the Public Advocate (OPA), Bell Atlantic and TAM subsequently petitioned to intervene in this case and all three petitions were granted. The Town of Swan's Island was also granted intervention in the Island Telephone case.

On January 28, 1999, we issued our Interim Order in these cases as well as in all of the other ITC investigations. The Interim Order required the TDS companies to reduce their rates to the NECA Pool Disbursement levels by May 30, 1999. It also stated that it was our goal to reduce access rates to NECA Tariff levels by May 31, 2001.

On January 19, 1999, the Staff conducted a Technical Conference in this case. On September 29, 1999, the TDS companies provided the Staff and the Public Advocate with an analysis of the impact of the access rate reductions. Over the next months, several meetings and conference calls took place to discuss access rate reductions and to discuss the elements of a plan for transitioning to access rates closer to the NECA Tariff level by May 2001. These discussions produced the resolution contained in the Stipulation.

B. BSCA Issues

On July 21, 1999, West Penobscot Telephone filed a revised Schedule of Rates providing for the addition of the Bangor exchange to the Premium Calling Area of its Exeter exchange pursuant to Part III(A) of Chapter 204, the BSCA Rule. The filing

also included a request for a waiver of the provision of the BSCA Rule which limits the rates for Premium service in the initiating exchange to the rate of the largest receiving exchange. The filing was suspended by the Commission on December 3, 1999, and again on March 3, 2000, so that the matter could be included in the discussions regarding access rate reductions.

C. Request for Accounting Order

On December 6, 1999, Somerset Telephone filed a Request for Accounting Order seeking an Order from the Commission approving the taking of additional depreciation over a 48 month period beginning on January 1, 1999, so as to eliminate the reserve deficiencies in the Central Office Equipment (COE) switch account. On December 8, 1999, the OPA intervened in the proceeding. The Request was the subject of discussion and provision of information during the meetings and conference calls relating to access rate reductions.

On April 11, 2000, the TDS companies filed the attached Stipulation which was signed by the OPA and Oxford West. TAM and Bell Atlantic have indicated that while they were not signing the Stipulation, they do not object to it.

III. DECISION

A. Standard

In reviewing a stipulation submitted by the parties to a proceeding, we must consider:

1. whether the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. whether the process that led to the stipulation was fair to all parties; and
3. whether the stipulated result is reasonable and is not contrary to legislative mandate.

See Consumers Maine Water Co., Proposed General Rate Increase of Bucksport and Hartland Divisions, Docket No. 96-739 (Me. P.U.C. July 3, 1997). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. Id.

B. Discussion

First, we find that the fact that the OPA signed the Stipulation and that Bell Atlantic and TAM did not object to it provides sufficient evidence that there is no

appearance or reality of disenfranchisement. The OPA represents the public before the Commission and thus, by signing the Stipulation, indicates its belief that the Stipulation benefits ratepayers. Bell Atlantic will likely be the biggest payer of the TDS companies' access rates and thus, by not objecting to the Stipulation, indicates that the Stipulation adequately addresses its, as well as other access payers', concerns.

Second, based upon our knowledge of our staff's participation in the process that led to the stipulation, we find that it was fair to all parties. All meetings were noticed to all parties and all parties were given an opportunity to meaningfully participate in the discussions that led to the Stipulation. We find this process inherently fair.

Third, we find that the stipulated result is reasonable and complies with the legislative mandate found in 35-A M.R.S.A. § 7101-B. The most pertinent provisions of the Stipulation are as follows:

Rate Case Moratorium. Until August, 2000, neither the TDS companies nor the Commission will initiate a rate proceeding, subject to certain exceptions. The test year for the general rate proceedings shall be the 12-month period July 1, 1999 to June 30, 2000.

Depreciation for Somerset Telephone. Effective January 1, 1999, Somerset will record additional depreciation on its COE switch plant, so that the identified reserve deficiency will be completely written off for ratemaking purposes by May 30, 2001.

Depreciation for Hartland & St. Albans and West Penobscot Telephone Companies. Hartland & St. Albans and West Penobscot will each establish a depreciation rate for ratemaking purposes to be effective January 1, 2000, which will result in the net book value of the COE switching plant relating to DCOs™ being reduced to salvage value by December 31, 2002, the time of their projected replacement.

West Penobscot BSCA Route. West Penobscot Telephone will withdraw its request for a waiver of the BSCA Rule in Docket No. 99-508. Within 30 days of this Order, West Penobscot Telephone will file revised BSCA rate schedules.

We find that, taken together, these provisions are reasonable, meet section 7101-B's legislative mandates, and promote the public interest.

Accordingly, we

O R D E R

1. That the Stipulation attached as Attachment A and filed on April 11, 2000, is approved;
2. That the TDS Companies file access rate compliance tariffs by February 1, 2001.

Dated at Augusta, Maine, this 14th day of April, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

April 12, 2000

STIPULATION

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Hampden
Telephone Company Pursuant to 35-A
M.R.S.A. § 7101-B

Docket No. 98-894

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Hartland & St.
Albans Telephone Company Pursuant to 35-
A M.R.S.A. § 7101-B

Docket No. 98-895

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Somerset
Telephone Company Pursuant to 35-A
M.R.S.A. § 7101-B

Docket No. 98-904

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Island Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-
B

Docket No. 98-906

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of Warren Telephone
Company Pursuant to 35-A M.R.S.A. § 7101-
B

Docket No. 98-911

MAINE PUBLIC UTILITIES COMMISSION
Investigation into Rates of West Penobscot
Telephone Company Pursuant to 35-A
M.R.S.A. § 7101-B

Docket No. 98-912

WEST PENOBSCOT TELEPHONE CO.,
Tariff Revision Regarding Addition of Bangor
Exchange to the Premium Calling Area of the
Exeter Exchange and Request for Waiver of
Part VII(B)(2)(a)(ii)(b) of Chapter 204

Docket No. 99-506

SOMERSET TELEPHONE COMPANY
Request for Accounting Order

Docket No. 99-880

Hampden Telephone Company, Hartland & St. Albans Telephone Company, Somerset Telephone Company, Island Telephone Company, Warren Telephone Company and West Penobscot Telephone Company (collectively “the TDS Telephone Companies”), the Office of the Public Advocate, the Telephone Association of Maine, New England Telephone and Telegraph Company, d/b/a Bell Atlantic and the Town of Swan’s Island, an intervenor in Docket No. 98-906 (collectively “the Parties”), to the extent each has executed this Stipulation, hereby agree and stipulate as follows:

I. PURPOSE

The purpose of this Stipulation is to settle all issues in these proceedings, to avoid a hearing on those issues raised in these cases and to expedite the Commission’s consideration and resolution of these proceedings. The provisions agreed to herein have been reached as a result of the review of information provided by the TDS Telephone Companies in response to written and oral information requests and discussions among the parties and the Commission’s Advisory Staff in these cases.

II. BACKGROUND

On May 27, 1997, the Maine Legislature enacted 35-A M.R.S.A. § 7101-B, which required the Commission to establish intrastate access rates for local exchange carriers based on their interstate access rates by May 30, 1999, and every two years thereafter. The Commission subsequently adopted Section 8(J) of Chapter 280 of its Rules, which set forth the method by which Section 7101-B would be implemented. As a preliminary step towards achieving this goal, Section 8(J) required all independent telephone companies (“ITCs”), including the TDS Telephone Companies, to reduce

their intrastate access rates by 40% of the difference between their existing rates and the level of the interstate access rates by May 30, 1998.

The TDS Telephone Companies filed initial schedules of intrastate access rates with the Commission on January 16, 1998 (Docket Nos. 98-036 to 98-041). On May 27, 1998, the Commission issued an Order Approving Initial Filings, which allowed the initial schedules of intrastate access rates to become effective on May 30, 1998. After the proceedings for the ITCs were concluded, the Commission Staff and the Telephone Association of Maine ("TAM") began informal discussions to attempt to resolve issues regarding the access rate reductions planned for May 30, 1999. In October and November, 1998, ITCs, including the TDS Telephone Companies, provided the Staff with earnings analyses of the impact of the further reductions. The information was provided in an informal manner to facilitate discussions and negotiations between the Staff and the ITCs.

On November 24, 1998, the Commission opened formal investigations into the rates of each of the ITCs, including the TDS Telephone Companies under the above-captioned Docket Nos. 98-894, 98-895, 98-904, 98-906, 98-911 and 98-912 ("TDS Access Cases"). The purpose of the investigations, as set forth by the Commission in the Notices of Investigation, was as follows:

As required by statute, the [TDS] Telephone Company's intrastate access rates must be reduced to the interstate level or lower no later than May 30, 1999. This investigation will consider the potential financial impact upon the Company from this change, and may examine other factors, such as changes to basic local exchange rates or the need for a state universal service fund, that may be needed to offset all or a part of the revenue effect of access rate reductions. Any adjustment to revenues will be based on an assessment of amounts needed to allow the Company an opportunity to earn a fair rate of return.

The Office of the Public Advocate ("OPA"), Bell Atlantic and TAM subsequently petitioned to intervene in all of the TDS Access Cases on December 2, 1998, December 3, 1998, and December 22, 1998, respectively. On December 3, 1998, the Town of

Swan's Island filed a petition to intervene in the Island Telephone Company case, Docket No. 98-906. The Commission granted all four petitions to intervene. On December 22, 1998, a Case Conference was held collectively in the cases of all ITCs. Also on December 22, 1998, TAM filed a Motion for a Protective Order in the Access Cases. On January 19, 1999, the Staff conducted a joint Technical Conference in the TDS Access Cases to discuss information regarding the TDS Telephone Companies.

On January 28, 1999, the Commission issued its Interim Order in the Access Cases which stated the goals that the ITCs would be required to reduce access rates as necessary to achieve intrastate access rates at NECA Pool Disbursement levels by May 30, 1999, and that the ITCs would be required to further reduce intrastate access rates to NECA Tariff levels over the two years following May 30, 1999. The Interim Order also stated that:

We expect that the ITCs will continue to participate fully in the discovery conferences conducted by Staff. We are hopeful that after further discussions, the ITCs and the other parties will propose stipulated transition plans for our review.

On March 1, 1999, The Island Telephone Company filed a revised rate schedule of intrastate access rates, to comply with the Commission's January 28, 1999 Interim Order, and which bore the proposed effective date of May 30, 1999 (Docket No. 99-130). On May 30, 1999, the Commission allowed The Island Telephone Company's revised access rate tariff to go into effect.

On September 29, 1999, the TDS Telephone Companies provided updated earnings analyses to the Staff and the Public Advocate. On October 6, 1999, the TDS Telephone Companies met with the Staff and the Public Advocate to discuss the information regarding the access rate reductions. On October 20, 1999, November 17, 1999, and January 19, 2000, the TDS Telephone Companies again met with the Staff and the Public Advocate to discuss the elements of a plan for transitioning to access rates closer to the NECA Tariff level by May 2001. In addition, conference calls were

held among the TDS Telephone Companies, the Staff and the Public Advocate on December 9, 1999 and March 14, 2000. These discussions produced the resolution contained in this Stipulation.

On July 21, 1999, West Penobscot Telephone Company filed a revised Schedule of Rates providing for the addition of the Bangor exchange to the Premium Calling Area of its Exeter exchange, pursuant to Part III(A) of Chapter 204 of the Commission Rules (Basic-Service Calling Area) (the "BSCA Rule"). The revised Rate Schedules bore the proposed effective date of December 4, 1999. The filing also included a request for a waiver of the provision of the BSCA Rule which limits the rates for Premium service in the initiating exchange (Exeter) to the rate of the largest receiving exchange (Bangor). The filing was assigned Docket No. 99-508. By Suspension Orders No. 1 and No. 2, dated December 3, 1999, and March 3, 2000, the Commission has suspended the revised rate schedules for a period of four months from March 3, 2000.

On December 6, 1999, Somerset Telephone Company filed a Request for Accounting Order seeking an Order from the Commission approving the taking of additional depreciation over a 48 month period beginning January 1, 1999, so as to eliminate the reserve deficiencies in the Central Office Equipment ("COE") switch account. The filing was assigned Docket No. 99-880. On December 8, 1999, the Public Advocate filed a Petition to Intervene in Docket No. 99-880. The Request for Accounting Order was the subject of discussion and the provision of information by the Company during the meetings and conference calls among the Parties.

III. STIPULATION PROVISIONS

The Parties to this Stipulation agree and recommend that the Commission order as follows:

1. Goals and Objectives. The parties recognize that in its Interim Order the Commission stated its goal to establish by May 30, 2001 intrastate access rates for ITCs at the level of the NECA Tariff No. 5 interstate switched access rates. The Commission further stated that an ITC was not precluded from making a showing that its particular circumstances warrant a deviation from the stated goal, and that the Commission would remain open to individual company circumstances and mindful of each company's need for a reasonable rate of return. The parties also recognize the policy objectives of maintaining the affordability and comparability of the TDS Telephone Companies' rates for basic telephone service.

2. Access Rate Moratorium. From the date of the Commission's approval of this Stipulation through May 29, 2001, the TDS Telephone Companies shall not be required to reduce their intrastate access rates below their currently existing levels as of the date of this Stipulation. The TDS Telephone Companies shall not be prohibited by this Stipulation from voluntarily reducing their intrastate access rates.

3. General Rate Proceeding. The Parties agree that, from the date of the Commission's approval of this Stipulation until not earlier than August 30, 2000, neither the TDS Telephone Companies nor the Commission shall initiate a rate proceeding for the purpose of effectuating or investigating an increase or decrease of any of the TDS Telephone Company's rates for basic exchange service and intrastate access service, or of the rate of return being earned by any of them, provided that the TDS Telephone Companies shall not be prohibited by this Stipulation from voluntarily reducing their rates. No later than August 30, 2000, the TDS Telephone Companies shall file revised rate schedules which will include each of the TDS Telephone Companies' proposed reduction in access rates and any change in rates for basic exchange service, in accordance with the Goals and Objectives in Section 1 and the provisions of this Stipulation. The revised rate schedules shall contain a provision that they will not be implemented until May 30, 2001. The rate structure of the access rates to be implemented on May 30, 2001, shall be consistent with the rate structure requirements

of Section 8(J) of Chapter 280 of the Commission's Rules, unless the requirements are waived by the Commission under Section 15 of Chapter 280.

4. Relationship of Access Rates and Basic Rates. The Parties recognize that, to the extent the Commission's goal of reducing access rates to the NECA tariff level by May 30, 2001, conflicts with the goals of affordable and comparable rates while allowing a reasonable rate of return, the Parties and the Commission will explore and consider alternatives, including a smaller reduction in access rates to a level above the NECA tariff level and/or the implementation of a state universal service fund, in order that local rates can be maintained at affordable and comparable levels.

5. Test Year. The test year for the general rate proceedings shall be the 12-month period July 1, 1999 to June 30, 2000.

6. Depreciation for Somerset Telephone Company. The Commission's approval and acceptance of this Stipulation will constitute the Commission's approval of the Accounting Order requested by Somerset Telephone Company in Docket No. 99-880, as follows: Effective January 1, 1999, Somerset will record additional depreciation on its COE switching plant, so that the identified reserve deficiency will be completely written off for ratemaking purposes by May 30, 2001. In addition, the switching depreciation rate following the installation of the new EWSD switching plant for ratemaking purposes shall be 10%.

7. Depreciation for Hartland & St. Albans and West Penobscot Telephone Companies. The Parties agree as follows:

a. With respect to the existing COE switching plant related to the DCO's, Hartland & St. Albans and West Penobscot Telephone Companies will each establish a depreciation rate for ratemaking purposes to be effective January 1, 2000, which will result in the net book value of the COE switching plant related to the DCOs being reduced to salvage value by December 31, 2002, the time of their projected replacement.

b. The rate base for ratemaking purposes in the rate cases as described in Section 3 of Hartland & St. Albans and West Penobscot Telephone Companies will include the projected average balance of the net book value of the COE switching plant related to the DCOs for the period May 30, 2001 to May 29, 2002.

8. West Penobscot BSCA Route (Exeter to Bangor). West Penobscot Telephone Company will withdraw its request for a waiver of the BSCA Rule in Docket No. 99-508. Within 30 days after the Commission's approval of this Stipulation, West Penobscot Telephone Company will file revised BSCA rate schedules which add the Bangor exchange to the Premium calling area of the Exeter exchange and which provide that the rate for the Premium calling plan for the Exeter exchange is no more than \$17.35. Upon approval of the revised rate schedules, West Penobscot Telephone Company will implement the new Premium calling plan in accordance with the BSCA implementation timetable submitted by the Telephone Association of Maine on April 12, 1999, in Docket No. 99-197.¹ For the period beginning on the effective date of the revised BSCA rate schedules to the effective date of the rates established in the general rate proceeding described in Section 3, West Penobscot Telephone Company shall record, and estimate as may be necessary, the additional revenues produced by the revised BSCA rate schedules and the additional costs and lost revenues associated with the implementation of the Exeter/Bangor BSCA route. The net cost/revenue loss associated with the Exeter/Bangor BSCA route over this period of time shall be included in the Telephone Company's revenue requirement and shall be recovered in rates in the general rate proceeding.

9. Staff Presentation of Stipulation. The Parties to the Stipulation hereby waive any rights that they have under 5 M.R.S.A. § 9055 and related Commission Rules to the extent necessary to permit the Advisor Staff to discuss this Stipulation and the

¹ Therefore, if the revised BSCA rate schedules are approved by the Commission on May 1, 2000, the implementation schedule would be as follows: (a) rates approved by the Commission by May 1, 2000; (b) customers notified no later than July 1, 2000; and (c) plans implemented no later than November 1, 2000.

resolution of this case with the Commission at public deliberations, without the participation of any party, except in the case where a Party to this proceeding is opposing this Stipulation.

10. Record. The record on which the Commission may base its determination whether to accept and approve this Stipulation shall consist of this Stipulation, all documents provided in responses to data requests and information requests of the Advisor Staff and any other material furnished by the Advisor Staff to the Commission, either orally or in writing, at the time of the Commission's consideration of this proceeding.

11. Non-Precedential Effect. Except where it may be expressly noted herein, the Stipulation shall not be considered legal precedent, nor shall it preclude a party from raising any issues in any future proceeding or investigation on similar matters subsequent to this proceeding.

12. Stipulation as Integral Document. This Stipulation represents the full agreement between all parties to the Stipulation and rejection of any part of this Stipulation constitutes a rejection of the whole.

TDS TELEPHONE COMPANIES

By: _____
Their: _____ Date _____

OFFICE OF THE PUBLIC ADVOCATE

By: _____
Its: _____ Date _____

TELEPHONE ASSOCIATION
OF MAINE

By:

Its:

Date

NEW ENGLAND TELEPHONE AND
TELEGRAPH COMPANY,
D/B/A BELL ATLANTIC

By: _____
Its: _____ Date _____

TOWN OF SWAN'S ISLAND

By: _____
Its: _____ Date _____